



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

ERIC C. RHEA, aka Eric Christian Rhea,
Plaintiff,

vs.

TOLL GEROLD et al.,
Defendant

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CIVIL ACTION NO. 6:09-818-HFF-WMC

ORDER

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the Court partially summarily dismiss the complaint without prejudice and without issuance and service of process as to all defendants, except Defendant Pledger. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on April 17, 2009, but Plaintiff failed to file any objections to the Report.* In the absence of such objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that this action be **DISMISSED** without prejudice and without issuance and service of process as to all defendants, except Defendant Pledger. Thus, the action will continue against Defendant Pledger.

IT IS SO ORDERED.

Signed this 12th day of May, 2009, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

*The Court notes that Plaintiff is likely unaware of the Magistrate Judge's Report as it appears that mail from the Court to Plaintiff has been returned. In light of present posture of the case, however, and the fact that Plaintiff has failed to keep the Court apprised of his current mailing address the Court has no option but to dismiss the parties as detailed herein.